



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2020-0585; FRL-10017-03]

Glyphosate Registration Review; Draft Endangered Species Act Biological Evaluations; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of the Environmental Protection Agency's (EPA or the Agency) draft biological evaluation (BE) for the registration review of the pesticide glyphosate and opens a public comment period on this document.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2020-0585, through the Federal eRulemaking Portal at <http://www.regulations.gov>.

Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at

<http://www.epa.gov/dockets/contacts.html>.

Due to the public health concerns related to COVID-19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Tracy Perry, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-0128;

email address: *perry.tracy@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides and/or the potential impacts of pesticide use on threatened or endangered (listed) species and designated critical habitat. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

3. *Environmental justice*. EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and

policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What Action is the Agency Taking?

A. Authority

The Endangered Species Act (ESA) requires federal agencies, such as EPA, to ensure that their actions are not likely to jeopardize the continued existence of species listed as threatened or endangered under the ESA or destroy or adversely modify the designated critical habitat of such species. The final registration review determination of reevaluating a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) constitutes an EPA "action" under the ESA. If EPA determines a pesticide may affect a listed species or its designated critical habitat, EPA must initiate informal or formal consultation with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service (collectively referred to as the Services), as appropriate. EPA initiates formal consultation with the Services through the conduct and transmittal of a biological evaluations (BE) with its findings.

B. Background

The schedule for conducting the atrazine and simazine BEs was negotiated as part of a partial settlement agreement pursuant to a joint stipulation filed on October 18, 2019 and entered by the court on October 22, 2019, in *Center for Biological Diversity et al. v. EPA et al.* (N.D. Ca) (3:11-cv-00293). EPA stated in this settlement that it would also include the herbicides propazine and glyphosate in this group of effects determinations. The Agency has completed a comprehensive, nationwide draft BE for the use of glyphosate relative to the potential effects on listed species and their designated critical habitats.

The glyphosate BE follows the *Revised Method for National Level Listed Species*

Biological Evaluations of Conventional Pesticides (see docket ID number EPA-HQ-OPP-2019-0185-0084 at www.regulations.gov). EPA utilized the Revised Method for the first time when conducting the methomyl and carbaryl draft BEs, which were posted for public comment on March 17, 2020 (85 FR 15168). EPA is currently evaluating public comments received and will take them into consideration for the final BEs for these pesticides. Comments received on carbaryl and methomyl that are applicable to the broader BE methodology will also be incorporated into the final BE for glyphosate as applicable.

After reviewing comments received during the public comment period on the glyphosate draft BE, EPA will issue a final BE and a response to public comments document. If EPA determines that glyphosate may affect listed species and/or their designated critical habitats, EPA will initiate consultation with the Services. Based on the BE, the Services will then develop a Biological Opinion for glyphosate.

C. Public Comments Sought

Pursuant to 40 CFR 155.53(c) and consistent with the enhanced stakeholder engagement practices (see docket ID number EPA-HQ-OPP-2012-0442), EPA is providing an opportunity, through this notice of availability, for interested parties to provide comments and input concerning the Agency's draft BE for glyphosate. Such comments could address, among other things, the application of the Agency's revised risk assessment methodologies to and assumptions for this draft BE.

The file size of the glyphosate draft BE exceeds the docket system's file size limitation, therefore it is not posted to this BE docket. Instead, the BE is posted on EPA's endangered species webpage (see web link provided in the Table below). Commenters are instructed to post comments on the BE to this BE docket (EPA-HQ-OPP-2020-0585) in www.regulations.gov, as indicated in the Table below.

Table – Pesticide Docket ID Number for Posting Comments on the Glyphosate Draft BE and Link to the Draft BE

Document	Pesticide Docket ID Number	Link to the draft BE
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	for Public Comments	
Glyphosate BE	EPA-HQ-OPP-2020-0585	https://www.epa.gov/endangered-species/draft-national-level-listed-species-biological-evaluation-glyphosate

1. *Other related information.* Additional information on endangered species risk assessment and the National Academy of Sciences report recommendations are available at <https://www.epa.gov/endangered-species/implementing-nas-report-recommendations-risk-assessment-methodology-endangered>. Information on the Agency's registration review program and its implementing regulation is available at <https://www.epa.gov/pesticide-reevaluation>.

2. *Information submission requirements.* Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted later.

- The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audio graphic or video graphic record. Written material may be submitted in paper or electronic form.

- Submitters must clearly identify the source of any submitted data or information.

- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

Authority: 7 U.S.C. 136 *et seq.*

Dated: November 18, 2020.

Alexandra Dapolito Dunn,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

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